

REFERENCE TITLE: REAL ID Act; urge repeal

State of Arizona
Senate
Forty-eighth Legislature
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SCM 1008

Introduced by
Senators Johnson, Blendu: Harper, Verschoor

A CONCURRENT MEMORIAL

URGING THE CONGRESS OF THE UNITED STATES TO REPEAL THE REAL ID ACT OF 2005 AND TO ALLOW STATES TO CREATE A DUAL PURPOSE LICENSE THAT DOES NOT INCLUDE WIRELESS TECHNOLOGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, in May 2005, the United States Congress enacted the REAL ID
4 Act of 2005 (REAL ID Act), which was signed by President Bush on May 11, 2005
5 and becomes fully effective May 11, 2008; and

6 Whereas, use of the federal minimum standards for state driver licenses
7 and state-issued identification cards will be necessary for any type of
8 federally regulated activity for which an identification card must be
9 displayed, including flying in a commercial airplane, making transactions
10 with a federally licensed bank, entering a federal building or making
11 application for federally supported public assistance benefits, including
12 Social Security; and

13 Whereas, some of the intended privacy requirements of the REAL ID Act,
14 such as the use of common machine-readable technology and state maintenance
15 of a database that can be shared with the United States and agencies of other
16 states and other countries, may actually make it more likely that a federally
17 required driver license or state identification card, or the information
18 about the bearer on which the license or card is based, will be stolen, sold
19 or otherwise used for purposes that were never intended or that are
20 criminally related than if the REAL ID Act had not been enacted; and

21 Whereas, these potential breaches in privacy that could result directly
22 from compliance with the REAL ID Act may violate the right to privacy of
23 thousands of residents of Arizona, as secured by article II, section 8 of the
24 Arizona Constitution; and

25 Whereas, the American Association of Motor Vehicle Administrators, the
26 National Governors' Association and the National Conference of State
27 Legislatures have estimated, in an impact analysis dated September 2006, that
28 the cost to the states to implement the REAL ID Act will be more than \$11
29 billion over 5 years, and the Arizona Department of Transportation has
30 estimated that the full implementation of the REAL ID Act will cost Arizona
31 more than \$60 million, none of which will be paid for by the federal
32 government; and

33 Whereas, the implementation of the REAL ID Act intrudes on the states'
34 sovereign power to determine their own policies for identification, licensure
35 and credentialing of individuals residing therein; and

36 Whereas, the REAL ID Act converts the state driver licensing function
37 into federal law enforcement and national security functions that are outside
38 the purpose and core competency of driver licensing bureaus; and

39 Whereas, the REAL ID Act constitutes an unfunded mandate by the federal
40 government to the states; and

41 Whereas, the REAL ID Act wrongly coerces states into doing the federal
42 government's bidding by threatening to refuse noncomplying states' citizens
43 the privileges and immunities enjoyed by other states' citizens; and

1 Whereas, the REAL ID Act imposes a national identification system
2 through the states premised on the threat to national security, but without
3 the benefit of public debate and discourse; and

4 Whereas, the regulations that have been adopted by the Department of
5 Homeland Security to implement the requirements of the REAL ID Act are
6 open-ended and left to the whim of Secretary Chertoff; and

7 Whereas, the mandate to the states, through federal legislation that
8 provides minimal funding for its requirements, to issue what is, in effect, a
9 national identification card appears to be an attempt to "commandeer" the
10 political machinery of the states and to require them to be agents of the
11 federal government, in violation of the principles of federalism contained in
12 the 10th Amendment to the United States Constitution; and

13 Whereas, security and privacy risks associated with RFID-enabled
14 identification cards have been well documented by the Government
15 Accountability Office. Threats such as skimming, eavesdropping and tracking
16 occur when an unauthorized individual with a RFID reader wirelessly gathers
17 information from a RFID chip without the cardholder's knowledge or consent;
18 and

19 Whereas, the time needed to incorporate such RFID chips into passports
20 has also been partly responsible for the long delays citizens have been
21 forced to endure waiting for new passports. This has resulted in thousands
22 of cases where travel has been cancelled or rescheduled, often at significant
23 financial business loss and inconvenience to travelers. The high costs of
24 passports and these delays have led the federal government to ask states to
25 create so called "dual purpose driver licenses", a driver license/passport
26 hybrid that would negate the need for citizens to use a federal passport for
27 travel within much of the Western Hemisphere. This places a burden on the
28 states to solve a problem the federal government both created and has failed
29 to properly administer, turning a state's driver license into a federalized
30 document; and

31 Whereas, unlike a passport, a driver license is commonly carried on a
32 citizen's person in all places at all times, making the inclusion of embedded
33 RFID particularly undesirable; and

34 Whereas, RFID chips bring little net value to passports or driver
35 licenses once a true cost benefit analysis has been completed that includes
36 the cost of equipment, security issues, privacy risks and identity theft; and

37 Whereas, the Congress must live up to its constitutional responsibility
38 and ensure that citizens' security and privacy are protected by reexamining
39 the RFID requirements in passports and eliminating the necessity of their
40 incorporation into dual purpose driver licenses.

41 Wherefore your memorialist, the Senate of the State of Arizona, the House of
42 Representatives concurring, prays:

43 1. That the United States Congress and the United States Department of
44 Homeland Security suspend implementation of the REAL ID Act.

1 2. That the United States Congress repeal the REAL ID Act to avoid the
2 significant problems it currently poses to state sovereignty, individual
3 liberty and limited government.

4 3. That the United States Congress adopt new rules allowing states to
5 establish a dual purpose license that does not have to include wireless
6 technology, and take necessary steps to ensure a more affordable and fully
7 functioning United States passport system.

8 4. That the Secretary of State of the State of Arizona transmit a copy
9 of this Memorial to the Secretary of the United States Department of Homeland
10 Security, the President of the United States Senate, the Speaker of the
11 United States House of Representatives and each Member of Congress from the
12 State of Arizona.